IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3968 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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B D PATEL & 9 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

NOTICE UNSERVED for Petitioner(s) : 1,4 - 5,7 - 8.(MR PB MAJMUDAR) for Petitioner(s) : 1 - 10.NOTICE SERVED for Petitioner(s) : 2 - 3, 6,9 - 10.
Ms. Kiran Pande, Asst.GOVERNMENT PLEADER for Respondent(s) : 1, 3, MR RA MISHRA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 08/02/2007

ORAL JUDGMENT

This petition under Article 226 of the Constitution of India has been filed by the

respective petitioners for an appropriate writ, order or direction directing the respondents not to revert the petitioners from the post of Senior Clerk as the case may be on the ground that they have not passed the departmental examination prescribed under the Gujarat Panchayat Services Senior Clerk and Head Clerk Qualifying Examination Rules, 1976 [“the Rules” for short]. It appears that it was the contention on behalf of the petitioners that as they have crossed 45 years of age as on 17.9.1994 they are exempted from passing the aforesaid examination and therefore the respondents were not justified in reverting the petitioners. It appears from the record that during the pendency of the Special Civil Application this Court had granted interim relief granted restraining the respondents.

2. On going through the Annexure'A' and considering the date of birth of respective petitioners it appears that the petitioners must

have retired by now on attaining the age of superannuation. Even otherwise, by subsequent resolution all those employees who have completed 45 years of age prior to 17.9.1994 are exempted from passing the departmental examination. Under the circumstances also the petitioners were not required to be reverted. Under the circumstances, in view of the subsequent resolution the interim order passed by this Court is converted into final order. Rule is made absolute. There shall be no order as to costs.

[M.R. Shah, J.]

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